

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

CONRAD ALVIN BARRETT *in custody*

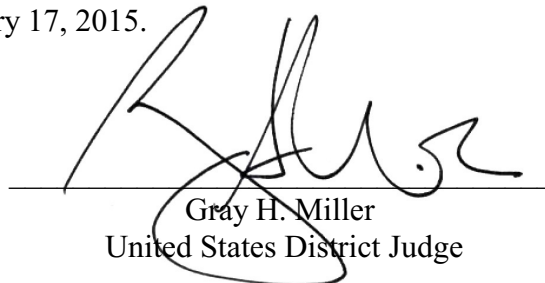
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CRIMINAL ACTION H-14-43

**ORDER**

Pending before the court is defendant Conrad Barrett's ("Barrett") motion to dismiss the indictment against him. Dkt. 44. The government has responded in opposition to the motion. Dkt. 47. Barrett is charged with violation of Title 18 U.S.C. Section 249 (a)(1), which is known as the federal hate crime statute. He challenges the constitutionality of the Section 249(a)(1). However, Barret concedes that that there is binding precedent against his position, and explains that he only makes the motion in order to preserve the record. The Fifth Circuit recently held that Section "249(a)(1) is a valid exercise of congressional power because Congress could rationally determine that racially motivated violence is a badge or incident of slavery." *United States v. Cannon*, 750 F.3d 492, 505 (5th Cir. 2014) and *cert. denied sub nom. McLaughlin v. United States*, 135 S. Ct. 709 (2014) and *cert. denied sub nom. Kerstetter v. United States*, 135 S. Ct. 709 (2014). This court is bound by the determination of the Fifth Circuit that Section 249(a)(1) is constitutional. Accordingly, defendant's motion to dismiss is **DENIED**.

Signed at Houston, Texas on February 17, 2015.

  
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Gray H. Miller  
United States District Judge